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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/857,756 05/15/97 VAN DE WITTE

P PHN15.815

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EXAMINER

MERLINO, A

ART UNIT

PAPER NUMBER

2877

DATE MAILED:

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Please find below and/or attached an Office communication concerning this application or proceeding.

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UNITED STATES DEPARTMENT OF COMMERCE
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 21

Application Number: 08/857,756

Filing Date: May 15, 1997

Appellant(s): Peter Van De Witte et al.

Norman N. Spain
For Appellant

MAILED
JAN 30 2001
GROUP 2800

Art Unit: 2877

EXAMINER'S ANSWER

This is in response to appellant's brief on appeal filed November 6, 2000.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

The brief does not contain a statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief. Therefore, it is presumed that there are none. The Board, however, may exercise its discretion to require an explicit statement as to the existence of any related appeals and interferences.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

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(7) *Grouping of Claims*

The rejection of claims 1-14 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

5,583,679

Ito et al

12-1996

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-14 rejected under 35 U.S.C. 103. This rejection is set forth in prior Office action, Paper No. 15.

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(11) Response to Argument

Applicant argues that "Unlike the display device defined by claim 1 and the compensator layer defined by claim 8, the compensator layer of the Ito et al patent has not been shown in the Ito et al patent to be formed of at least two retardation foils, each predominately containing polymerized or vitrified liquid-crystalline material, the liquid-crystal molecules in this material having average directions of orientation in the retardation foils which makes an angle with each other, that ranges between 60 and 120 degrees and which molecules exhibit a tilt relative to a plane parallel to the art retardation foils"; however, examiner respectfully disagrees. As stated in the rejection above, Ito et al specifically teaches of two retardation foils containing polymerized or vitrified liquid-crystalline material as specified in the above 103 rejection wherein the molecules exhibit an inclined angle (tilt angle) as shown in figure 2 and throughout the specification (specifically column 17; lines 28-33). Applicant further argues that "the teachings of the average directions of orientation of the liquid-crystal molecules in one compensator layer making an angle of either 0-90 degrees or 90-180 degrees with the average direction of orientation of the liquid-crystal molecules in a second compensator layer of the device, as taught by Ito et al, is even suggestive of the claimed range of 60-120 degrees." Examiner again respectfully disagrees for the reasons stated in the above rejection that it held that discovering the optimum or workable ranges involve only routine skill in the art unless it can be shown that the claimed range results in "unexpected results".

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Examiner notes that in the response filed 3/3/00 (paper no. 14) , applicant argues “the teachings of the average directions of orientation of the liquid-crystal molecules in one compensator layer making an angle of either 0 to 90 degrees or 90 to 180 degrees with the average direction of orientation of the liquid-crystal molecules in a second compensator layer of the device, as taught by Ito et al., is even suggestive of the claimed range of from 60-120 degrees.” However, it appears that in the brief filed 11/6/00, new arguments may have been introduced.. As a result of the wording of the arguments, examiner believes that the claims may be interpreted in a different way. Throughout the prosecution of the application, the interpretation by examiner was that the angle of 60-120 was the angle between the average orientation direction of the foils which applicant did not appear to contradict since in the arguments filed in paper no. 14 as shown above, applicant argues only the range of the angles. However, examiner notes that a second interpretation of the claims as a result of the wording of the arguments, if indeed that is what the applicant is arguing is that the angle is not between the retardation foils but rather between the molecules within the individual foils which examiner indicates as new arguments. Examiner believes that the specification only teaches of the first interpretation as shown on page 7; lines 5-24 and page 9; line 14-19 wherein “the angle” is shown to be an angle between one retardation foil with respect to the other retardation foil as opposed to an angle of the molecules within the same retardation foil.

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Appeal Conference

An Appeal Conference was held on January 18, 2001. The following is a list of the attendees:

Frank G. Font *FGF*

William L. Sikes *WLS*

James A. Dudek *①*

Amanda Merlino *ahm*

Respectfully submitted,

Amanda Merlino

Amanda Merlino

ahm
January 25, 2001

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